

**IX. In Violation of the APA, the FCC Has Decided To Arbitrarily Deny High Cost Loop Support by Indexing Changes to Nationwide Average Loop Costs with the Rate of Inflation Although Rural ILECs' Costs Remain High in Comparison to the Rest of the Nation.**

The FCC's decision to, in the year 2000, increase the nationwide average cost per loop using an inflation adjustment factor unfairly "raises the bar" for rural ILECs and will totally remove high cost loop support for some rural ILECs.<sup>47</sup> The FCC's justification for adopting an inflation-adjusted nationwide average cost per loop, i.e., "to limit growth in the fund" is contrary to the very notion of universal service and Congressionally mandated universal service principles. As the FCC indicates, some small ILECs' loop costs have risen faster than the nationwide average loop cost. The universal service fund was developed to ensure that such carriers receive support precisely because they have higher than average costs.

Moreover, use of an inflation index is unreasonable as it may deny high cost loop support to ILECs that serve high cost areas and are eligible to receive assistance today. By artificially "raising the bar" for eligibility for high cost loop support, the Commission will totally disqualify some of these carriers from receiving support in complete contradiction to the congressional mandate to promote universal service in high cost areas. Accordingly, the Rural Telephone Companies respectively request that the Commission reconsider its decision to use an inflation adjusted nationwide average loop cost.

**X. The USF Order Violates the Regulatory Flexibility Act By Creating Hardship for Small Businesses.**

In adopting new regulations, the Regulatory Flexibility Act requires the Commission to consider significant alternatives that minimize the impact on small businesses. 5 U.S.C. § 603, et

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<sup>47</sup> *USF Order* at ¶301.

seq. The Commission's Final Regulatory Flexibility Act Analysis accompanying the USF Order demonstrates that the Commission has failed to consider significant alternatives to, e.g., avoid an unlawful taking of small ILEC property in violation of the Fifth Amendment. *See* Section II, above.

Rather than providing regulatory flexibility to eliminate the "takings" problem confronting the Rural Telephone Companies, the Commission has created an insurmountable hardship for these small U.S. businesses. Accordingly, the Rural Telephone Companies request that the Commission reconsider this decision.

#### **XI. Conclusion.**

For the reasons set forth herein, the Rural Telephone Companies request that the Commission reconsider its USF Order, USF Recon. Order and Access Charge Reform Reconsideration Order for the reasons set forth herein.

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## EXHIBIT ONE

Alenco Communications, Inc.	Joshua	TX
Amana Society Service Company	Amana	IA
Arrowhead Communications Corp.	Hector	MN
Ayersville Telephone Company	Defiance	OH
Baraga Telephone Company	Baraga	MI
Barry County Telephone Company	Delton	MI
Bay Springs Telephone Company, Inc.	Bay Springs	MS
Bentleyville Telephone Co.	Bentleyville	PA
Benton Ridge Telephone Company	Benton Ridge	OH
Bloomington Telephone Company	Bloomington	IN
Blue Earth Valley Telephone Co.	Blue Earth	MN
Bruce Telephone Company	Bruce	MS
Casey Mutual Telephone Co.	Casey	IA
CFW Communications	Waynesboro	VA
Citizens Tel. Co. of Kecksburg	Mammoth	PA
Citizens Telephone Corp.	Warren	IN
Clements Telephone Company	Redwood Falls	MN
Climax Telephone Company	Climax	MI
Community Service Telephone Co.	Winthrop	ME
Craigville Telephone Co., Inc.	Craigville	IN
Crockett Telephone Company	Bradford	TN

Dixville Telephone Company	Dixville Notch	NH
Doylestown Telephone Company	Doylestown	OH
Dunbarton Telephone Co., Inc.	Dunbarton	NH
Dunkerton Tel Cooperative	Dunkerton	IA
Eagle Valley Telephone Co.	Hector	MN
Easton Telephone Company	Blue Earth	MN
Eckles Telephone Company	Blue Earth	MN
Elkhart Telephone Company	Elkhart	KS
Eustis Telephone Exch., Inc.	Brady	NE
Farmers Coop Telephone Company	Dysart	IA
Farmers Mutual Telephone Co - OH	Okolona	OH
Farmers Mutual Telephone Co-MN	Bellingham	MN
Flat Rock Mutual Tel. Co.	Flat Rock	IL
Fort Jennings Telephone Co.	Fort Jennings	OH
Frontier Communications of DePue	DePue	IL
Geetingsville Tel Co Inc.	Frankfort	IN
Gervais Telephone Company	Gervais	OR
Graceba Total Communications Inc.	Ashford	AL
Granada Telephone Co.	Hector	MN
Granby Tel & Tlg Company-MA	Granby	MA
Gulf Telephone Co.	Foley	AL
Hartington Telephone Company	Hartington	NE
Hickory Telephone Company	Hickory	PA

Hinton Telephone Company, Inc.	Hinton	OK
Hollis Telephone Company	Wilton	NH
Home Telephone Company - NE	Brady	NE
Home Telephone Company - MN	Grand Meadow	MN
Hot Springs Telephone Co.	Missoula	MT
Huxley Cooperative Tel Co.	Huxley	IA
Indianhead Telephone Co.	Hector	MN
Ironton Telephone Company	Coplay	PA
Jefferson Telephone Co., Inc.	Jefferson	SD
Kadoka Telephone Company	Kadoka	SD
Kaleva Telephone Company	Kaleva	MI
Kalida Telephone Company, Inc.	Kalida	OH
Laurel Highland Telephone Co.	Stahlstown	PA
Ligonier Telephone Company	Ligonier	IN
Mankato Citizens Tel Co.	Mankato	MN
Manti Telephone Company	Manti	UT
Marianna & Scenery Hill Tel Co.	Marianna	PA
Marseilles Telephone Company	Metamora	IL
McClure Telephone Company	McClure	OH
McDonough Telephone Coop Inc.	Colchester	IL
MEBTel Communications	Mebane	NC

Merchants & Farmers Tel. Co.	Hillsboro	IN
Metamora Telephone Company	Metamora	IL
Mid Century Telephone Coop Inc.	Canton	IL
Mid Communications Tel Co	Mankato	MN
Mid-Iowa Telephone Coop Assn	Gilman	IA
Middle Point Home Tel Co.	Middle Point	OH
Midstate Telephone Co-ND	Stanley	ND
Midwest Telephone Company	Parkers Prairie	MN
Miles Cooperative Tel Assn	Miles	IA
Millry Telephone Company, Inc.	Millry	AL
Minford Telephone Company, Inc.	Minford	OH
Minnesota Lake Telephone Co	Minnesota Lake	MN
Mt. Angel Telephone Company	Mt. Angel	OR
National Telephone of Alabama, Inc.	Cherokee	AL
New Lisbon Telephone Company	New Lisbon	IN
North-Eastern Pennsylvania Telephone Co.	Forest City	PA
North English Coop Tel Co.	North English	IA
Northwest Iowa Telephone Company, Inc.	Sergeant Bluff	IA
Northwestern Indiana Tel. Co	Hebron	IN
Nova Telephone Company	Nova	OH

Odin Telephone Exchange, Inc.	Odin	IL
Orwell Telephone Company	Orwell	OH
Osakis Telephone Company	Parkers Prairie	MN
Palmerton Telephone Company	Palmerton	PA
Panhandle Telephone Coop, Inc.	Guymon	OK
Panora Cooperative Tel. Assn	Panora	IA
Pennsylvania Telephone Co.	Jersey Shore	PA
Peoples Mutual Telephone Co	Gretna	VA
Peoples Telephone Company, Inc.	Erin	TN
Pierce Telephone Company, Inc.	Pierce	NE
Pine Island Telephone Co.	Hector	MN
Pinnacle Communications	Lavaca	AR
Prairie Grove Telephone Co	Prairie Grove	AR
Pymatuning Independent Tel Co	Greenville	PA
Redwood County Telephone Co.	Redwood Falls	MN
Roanoke Telephone Co., Inc.	Roanoke	AL
Roberts County Tel Coop Assn	New Effington	SD
Ronan Telephone Company	Ronan	MT
Searsboro Telephone Company	Searsboro	IA
Shell Rock Telephone Company	Shell Rock	IA
South Canaan Telephone Company	South Canaan	PA

Southern Montana Tel. Co.	Wisdom	MT
State Long Distance Tel Co	Elkhorn	WI
State Telephone Company	Coxsackie	NY
Stayton Cooperative Tel Co	Stayton	OR
Stockholm-Strandburg Tel Co	Stockholm	SD
Summit Telephone Company	Fairbanks	AK
Swayzee Telephone Company	Swayzee	IN
Sycamore Telephone Company	Sycamore	OH
Tri County Telephone Co., IN	New Richmond	IN
Tri-County Tel. Membership Corp.	Belhaven	NC
Valley Telephone Company, Inc.	Parkers Prairie	MN
Van Horne Coop. Telephone Co	Van Horne	IA
Venus Telephone Corporation	Venus	PA
Volcano Telephone Company	Pine Grove	CA
West Iowa Telephone Company	Remsen	IA
West Liberty Telephone Company	West Liberty	IA
West Side Telephone Company	Morgantown	WV
West Side Telephone Company - PA	Morgantown	WV
West Tennessee Telephone Co., Inc.	Bradford	TN
Western Telephone Company - SD	Faulkton	SD



Wikstrom Telephone Company, Inc.	Karlstad	MN
Wilton Telephone Company - NH	Wilton	NH
Yadkin Valley Telephone Memb Corp	Yadkinville	NC
Yukon-Waltz Telephone Company	Yukon	PA

## EXHIBIT TWO

This exhibit is not available to the public because it contains proprietary commercial information. *See* 47 C.F.R. § 0.457(d). The Rural Telephone Companies are individually filing this exhibit under separate cover pursuant to 47 C.F.R. § 0.459.

### EXHIBIT THREE

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## EXHIBIT FOUR

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